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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,008	06/25/2003	Bernd Schessl	2000P13034WOUS	5730

46726 7590 04/13/2007  
BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
100 BOSCH BOULEVARD  
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EXAMINER
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HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/606,008

Applicant(s)

SCHESSL ET AL.

Examiner

James O. Hansen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Copy of Drawing. *ph*

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 27, 2007 has been entered.

### ***Drawings***

2. The proposed replacement sheet of Figure 1 was received on March 27, 2007. At this time, the examiner has not approved the replacement sheet since it appears that the leader line for reference #13 should be dotted as is the case for the leader lines of reference #'s 8 & 15.

### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on December 29, 2000. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 8, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO publication 98/33426 [known hereafter as WO`426]. WO`426 (see figures) teaches of a dishwashing machine comprising: a dishwashing machine housing (fig. 8) having an internal height; a pair of retractable pull-out upper and lower containers (202a, 202b) mounted one above the other in the housing; each of the containers containing a dishwashing system [see disclosure]; and the containers have a total height less than the internal height of the housing as readily apparent to the examiner (note fig. 7). As to claim 10, the containers having different heights (fig. 7). As to claim 11, the upper container having a height greater than the height of the lower container (fig. 7).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9 & 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO`426 in view of German publication 3501364 [known hereafter as DE`364]. WO`426 teaches applicant's inventive claimed structure as disclosed above; including

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the housing having a pair of opposed sides (207) and a base (206), the containers having front pieces (viewed as the container front panels –shown in fig. 7) located between the sides with the containers located above the base, base panel (62) set back the depth of a pedestal recess (clearly shown in fig. 7 at the bottom front of the housing), and arguably “means” (see figure 24) between the machine and a surface; WO 426 does show the housing as including “means” for maintaining the base of the housing above the surface on which the machine is to be supported, but does not specifically disclose the “means” as including two pairs of adjustable feet. DE 364 (figures 1-3) is cited as an evidence reference to show that it was known in the art to incorporate two pairs of adjustable feet (2) to an appliance housing. Accordingly, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize four adjustable feet (two in the front and two in the rear) as taught by DE 364 because this arrangement provides the means to establish a level appliance housing and serves to compensate for minor irregularities [height differences] that may be present in the supporting floor surface. The position is taken that the feet would inherently be “set back” on the housing from the front of the machine at least as far as the depth of the recess since there are no provisions for the feet to be mounted forward of the recess i.e., the feet could be mounted to the base. Furthermore, WO 426 when modified would contain both pairs of installation feet disposed below the base of the housing (again, note fig. 24), the base panel would at least have a height equal to or greater than the depth of the pairs of feet below the base (or else the bottom of the machine would exhibit a gap/space as viewed from the front), the base panel being set back on the housing from the front of the machine at a depth less than a depth of the pairs of feet as clearly evident when viewing the prior

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art reference as a whole a (figs. 7 & 24 for example), whereby the base panel covers the feet from view from the front of the machine.

### ***Response to Arguments***

8. Applicant's arguments filed March 27, 2007 have been fully considered but they are not persuasive. In response to applicant's remarks that WO`426 does not teach of a washing machine having a housing whose sides and base are raised above a surface on which the machine is supported, note the following: The claims anticipated by WO`426 do not claim this feature. The obviousness-type rejection does address this feature since WO`426 does show a base and sides of the machine being elevated above a surface (fig. 24) with "means" [viewed as feet] supporting the machine above the surface, wherein DE`364 is an evidence reference showing that feet for supporting a machine are adjustable for the purpose of leveling the machine relative to the surface. As to amended claim 15, the position is taken that the prior art combination as set forth in the action adequately teaches the claimed limitations. It is further noted that the claim as presently amended does not disclose a predetermined spacing disposed between the base and the surface with the feet and the base panel being the same height as the predetermined spacing (for example) as may have been applicant's intent. Applicant should review the disclosure as originally filed if future amendments to the claims are presented concerning the above subject matter since the specification must provide support, i.e., be enabling, for all the claimed limitations.

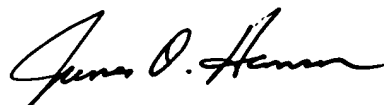
**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Becker et al., Cushing et al., and Jenkins describe dishwasher machines having a base separated from a surface and defining a gap/space.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
April 6, 2007

\*\*\*\*\* DUPLICATE COPY \*\*\*\*\*

Application Serial No.: 10/606,008  
Art Unit: 3637

1 / 1 "Replacement Sheet"

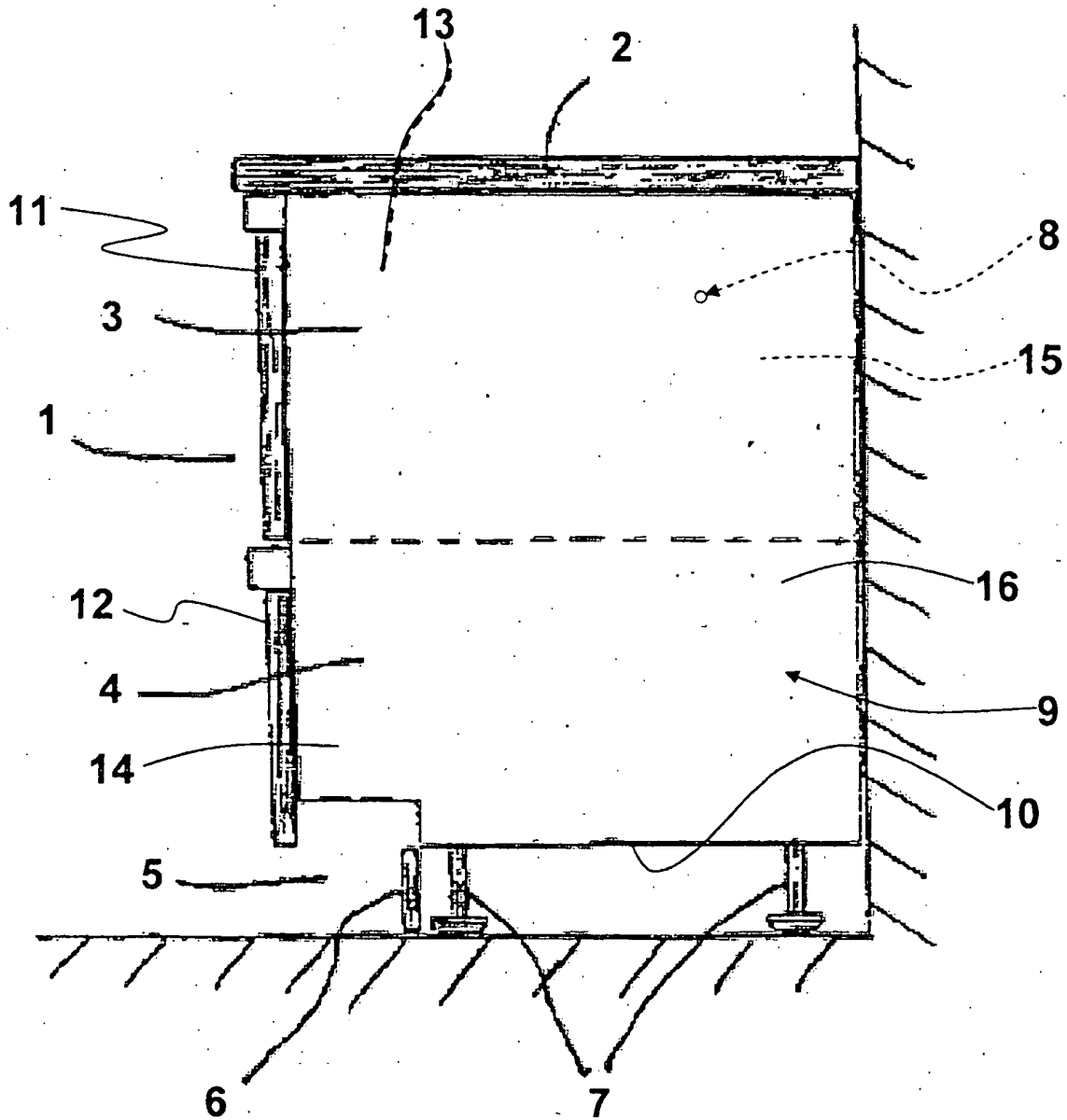


Fig. 1

Not Approved  
Apr 4/5/07